IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWELFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and
THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT APPEAL NO : 737 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 01/09/2004 in WVMP No.1944 of 2004 in WPMP No.31214 of 2004 in WP NO : 7478 OF 2002 on the file of the High Court.)

Between:

1 Sri Venkateswara University, Tirupati Chittoor district, rep by its Registrar
2 Vice Chancellore, Sri Venkateswara University, Tirupati, Chittoor District
3 The Controller of Examinations, Sri Venkateswara University, Tirupati

Chittoor District

APPELLANTS/Petitioners/ Respondents

AND

1 O. Ramasudarshana Reddy S/o O.Pedda Subba Reddy, R/o Nandyal, Kurnool

District

…Respondent-1/Writ petitioner

2 Sri. D. Achaiah Retired District & Sessions Judge/ Enquiry Officer, R/o 16-2-

754/A12, APAU Colony, Osmanaghad, Road No.5, Hyderabad-60

…Respondent-2

(R2 is not necessary party)

.....RESPONDENTS

Counsel for the Appellant: MR.C.V.Mohan Reddy

Counsel for the Respondent No.1: MR.M.Srikanth

The Court at the admission stage made the following :

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

-

W.A.NO.737 OF 2005

JUDGMENT: (per the Hon'ble Sri Justice L.Narasimha Reddy)

This writ appeal is directed against the order dated 1-9-2004 passed in W.V.M.P.No.1944 of 2004, refusing to vacate the orders granted in WPMP No.31214 of 2004, in W.P.No.7478 of 2002.

The 1st respondent filed the writ petition No.7478 of 2002, challenging the order dated 3-11-2000 where under an enquiry officer was appointed; and the

consequential order of removal, dated 11-2-2002. He also filed WPMP No.31214 of 2003 with a prayer to direct the appellant-university to pay the salary and allowances for the period from 4-4-1987 to 12-6-2000. A reasoned order dated 16-2-2004 in WPMP No.31214 of 2003 was passed. The appellant filed an application to vacate the same. The learned Single Judge who dealt with WVMP No.1944 of 2004, took the view that the order in WPMP No. 31214 of 2004, was passed after hearing the parties and in that view of the matter, it cannot be vacated.

Sri C.V.Mohan reddy, learned counsel appearing for the appellants submits that there did not exist any basis for the petitioner to seek the relief in WPMP No.31214 of 2004, inasmuch as the relief claimed in the writ petition was only directed against the order of removal dated 11-2-2002, whereas the relief claimed in the WPMP No. 31214 of 2003 related to an earlier order dated 12-11-1987, under which, the petitioner was removed from service. He contends that though the interim order in WPMP No. 31214 of 2004 was passed by furnishing reasons, the fact remains that it was passed at the admission stage and before the appellant filed the counter affidavit. He submits that the reasons furnished by the learned Single Judge, while dealing with the WVMP cannot be sustained.

Sri M.Srikanth, learned counsel for the 1st respondent, on the other hand, submits that the order in WPMP No.31214 of 2004 was passed after hearing the learned standing counsel and elaborate reasons were assigned in it. He contends that the relief claimed in the WPMP is ancillary to one claimed in the writ petition and once the order in WP No. 5088 of 1988 has become final, the respondent cannot take any exception to the order under appeal.

The 1st respondent was initially removed from service through an order dated 12-11-1987. He challenged the same by filing WP No. 5088 of 1988. Through an order dated 26-10-1989, a Division Bench of this Court set aside that order on the sole ground that it was not proceeded by any enquiry. Thereafter, the 1st respondent was reinstated into service. The appellants initiated a fresh round of disciplinary proceedings and they resulted in the removal of the 1st respondent from service, through an order dated 11-2-2002. WP No.7478 of 2002 is filed against it.

In WPMP No. 31214 of 2003, the 1st respondent claimed the relief of payment of full salary and allowances for the period from 4-4-1987 to 12-6-2000 which is relatable to an order passed in WP No.5088 of 1988. It is debatable as to whether the relief granted in that petition, takes in its fold, the entitlement of the 1st respondent, to be paid the salary from 4-4-1987 to 12-6-2000. It is true that the relief with that regard is not claimed in specific terms in the present writ petition namely WP No. 7478 of 2002. However, these aspects need to be taken in to account, while dealing with the writ petition, at the final hearing.

We are of the view that unless the question as to whether the 1st respondent is entitled to be paid the salary and allowances from 4-4-1987 to 12-6-2000 is finally decided, he cannot be extended such a relief as an interlocutory measure.

In that view of the matter, we allow the writ appeal and consequently vacate the order dated 16-2-2004 in WPMP No.31214 of 2003. However, we direct the writ petition to be listed for hearing on 27th April, 2005 and that the question as to whether the 1st respondent is entitled to be paid the salary for the period referred to above shall be dealt with independently on its own merits.

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(T.MEENA KUMARI,J)

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(L.NARASIMHA REDDY,J)

12-4-2005

rkk/gurc

To

1.The Registrar, Sri Venkateswara University, Tirupati,Chittoor District.

2. The Vice Chancellor, Sri Venkateswara University, Tirupati,Chittoor District

3.The Controller of Examinations, Sri Venkateswara University, Tirupati, Chittoor District.

4.2 CCs to the SO Writ Filing Section with a direction to post WP No.7478 of 2002 for hearing on 27-4-2005 as directed in the order.

5.2 CD copies.